



Public Notice

U S Army Corps
of Engineers
Huntington District

In reply refer to Public Notice No.
200501147

Issuance Date:
October 4, 2005

Stream: Daniel Hollow

Closing Date:
November 3, 2005

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps' request to the West Virginia Department of Environmental Protection (WVDEP) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Mingo Logan Coal Company
1000 Mingo Logan Avenue
Wharncliff, West Virginia 25651

LOCATION: The proposed project would be located in Daniel Hollow in the Logan District of Logan County, West Virginia as depicted on the attached location map. The proposed project would result in disturbances to Daniel Hollow and the 1st Right and 2nd, 3rd and 4th Left Unnamed Tributaries to Daniel Hollow. Daniel Hollow flows into Seng Camp Creek. Seng Camp Creek flows into Spruce Fork. Spruce Fork flows into Little Coal River, which flows into the Coal River, a navigable (Section 10) waterway.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place approximately 712 cubic yards of dredged and fill material into 0.58 acre of waters of the United States, including 3,538 linear feet (0.44 acre) of intermittent stream and 1,816 linear feet (0.14 acre) of ephemeral streams in conjunction with the construction, operation and reclamation of the Daniel Hollow Coarse Refuse Facility. The proposed activity would involve the construction of a refuse fill capable of storing approximately 32.85 million cubic yards of coarse refuse material proposed to be generated at the adjacent Cardinal Preparation Plant Facility. The proposed refuse fill would drain a contributing watershed area of approximately 361 acres. Approximately 850 to 2,100 linear feet of belt line or haulroad would be constructed for transportation of the coarse refuse material from the preparation plant to the disposal site. Mandatory drainage control for the proposed impact area would be provided by existing structures on the adjacent Mountaineer II Mine. According to the applicant, the purpose of the project is to create storage area to accommodate the disposal of material generated by the processing of the Alma and Cedar Grove coal seams at the Cardinal Preparation Plant Facility. The applicant's Surface Mining Permit No. O-5016-04 and WV National Pollutant Discharge Elimination System WV1013289 applications pursuant to the Surface Mining Control and Reclamation Act and Section 402 of the CWA respectively are under review by the WVDEP. The anticipated life of the project would be 27-years. Reclamation of the facility would occur contemporaneously with the lower benches being reclaimed as upper benches are being constructed. Details regarding the mine phases can be found in Section N of the applicant's Surface Mining Application on file at the WVDEP. Plans for the proposed project are attached to this public notice.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

MITIGATION PLAN: The applicant has submitted a compensatory mitigation plan (CMP) to compensate for impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers. The applicant proposes to enhance habitat in approximately 646 linear feet (0.82 acre) of Spruce Fork directly downstream of the proposed project area. Within the proposed mitigation site, a vortex rock weir, boulder cluster, cross vane, rootwad-boulder revetment, and a J-hook vane would be installed. A minimum of a 50-foot riparian buffer zone would be established along the mitigation area. The applicant proposes to permanently protect the mitigation area via a protective real estate instrument. The mitigation area would be monitored for a minimum five year period to determine mitigation success.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area to be affected by the proposed project. Cultural Resources Analysts, Inc. completed an "Abbreviated Technical Report for a Phase I Archaeological Survey...Daniel Hollow Refuse Facility...West Virginia" on behalf of the applicant to determine the effect the proposed project could have on historic or prehistoric archaeological sites or historic properties. Information obtained from the records search at the West Virginia Cultural and History (SHPO) found evidence of one site (46Lg24) located at the western edge of the proposed project area and seventeen previously recorded sites located within 1.0 mile of the proposed project area. Additionally, two other archaeological sites and three historic properties were located within 1.0 mile of the proposed project based on CRA records. However, information obtained by the records search and field survey failed to identify any evidence for historic or prehistoric archaeological sites or historic properties in the proposed project area. Examination of exposed bedrock failed to identify overhangs. A copy of this public notice will be sent to the SHPO for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

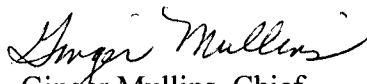
ENDANGERED/THREATENED SPECIES REVIEW: The Huntington District has consulted the most recently available information and has determined two federally listed endangered species, the Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) may occur within the proposed project area. A bat mist net survey was completed for the proposed project on July 12, 2004. A total of 30 bats, representing 4 species, were captured. No endangered bats were captured during the survey efforts. The applicant has also been advised the proposed project area must be investigated for abandoned mine portals or other features that could provide summer and winter habitat for the Virginia big-eared bat or hibernaculum for the Indiana bat. At this time, the USACE cannot determine compliance with the ESA until additional information is provided by the applicant. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area that would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an

evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mrs. Teresa Spagna, Project Manager, South Regulatory Section, CELRH-OR-FS, U. S. Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Mrs. Teresa Spagna of the South Regulatory Section at 304-399-5710.


Ginger Mullins, Chief
Regulatory Branch

(W)

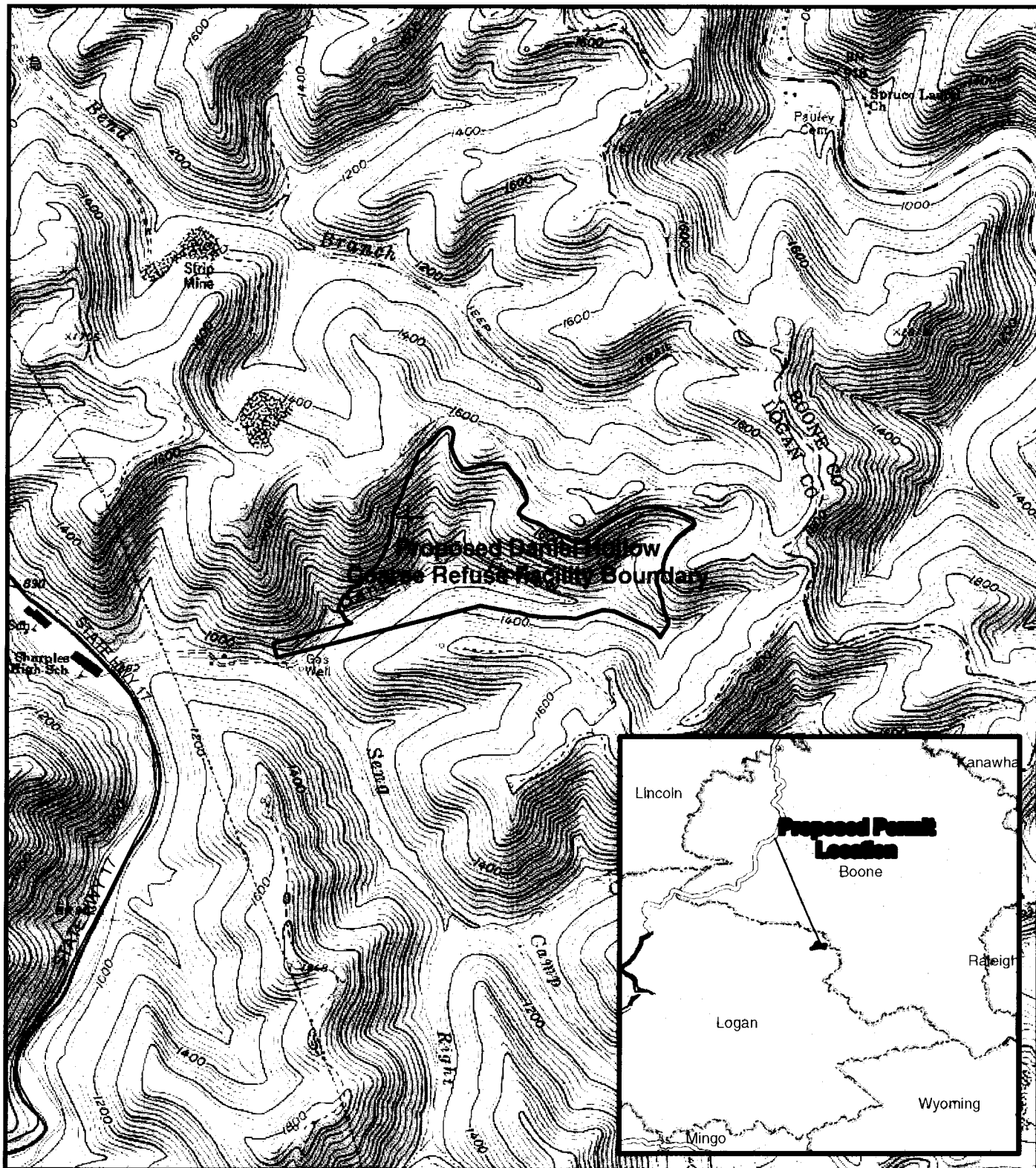
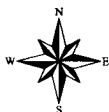


EXHIBIT 2 - Daniel Hollow Coarse Refuse Facility Proposed Permit Area



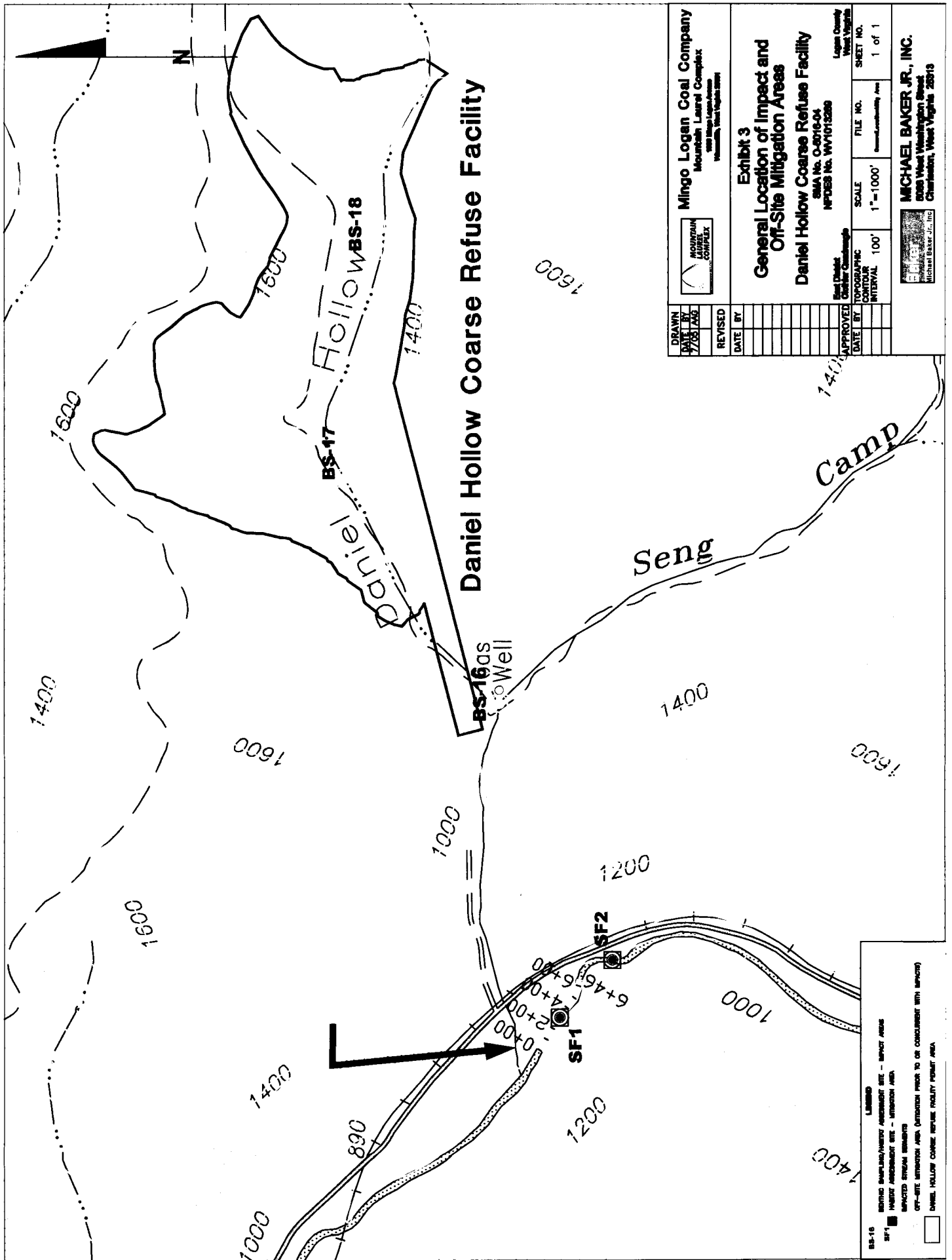
Mingo Logan Coal Company
Mountain Laurel Complex
7 Players Club Road
Charleston, WV 25311



Proposed Permit Boundary

0.2 0.1 0 0.2 0.4
Miles

0.25 0.125 0 0.25 0.5
Kilometers



Mingo Logan Coal Company Mountain Laurel Complex West Virginia		Exhibit 3 General Location of Impact and Off-Site Mitigation Areas Daniel Hollow Coarse Refuse Facility SMA No. 0-8016-04 NPDES No. WV1012286		Logan County West Virginia
DRAWN BY DATE	REVISED DATE BY	SCALE 1"=1000' TOPOGRAPHIC CONTOUR INTERVAL 100'	FILE NO. SHEET NO. 1 of 1	APPROVED DATE BY

MICHAEL BAKER JR., INC.
 5058 West Washington Street
 Charleston, West Virginia 25313

Legend

- BS-16 Existing Stream/Impact Area - Impact Area
- SF1 Impact Area - Impact Area
- SF2 Impact Area - Impact Area
- Off-Site Mitigation Area (Detention Pond to be Constructed with Impact)
- Daniel Hollow Coarse Refuse Facility Permit Area



X1705

PERMANENT MONUMENT

AMERICAN ELECTRIC POWER
& VERIZON UTILITY LINES

Hobet Mining, Inc.
S-5070-91
Seng Camp Surface #2 Mine

UNITED AFFILIATES CORPORATION
SURFACE AND MINERAL

Hobet Mining, Inc.
S-5070-91

Mingo Logan Coal Company
U-5072-91

Mingo Logan Coal Company
U-5072-91
Seng Camp #8 Deep Mine

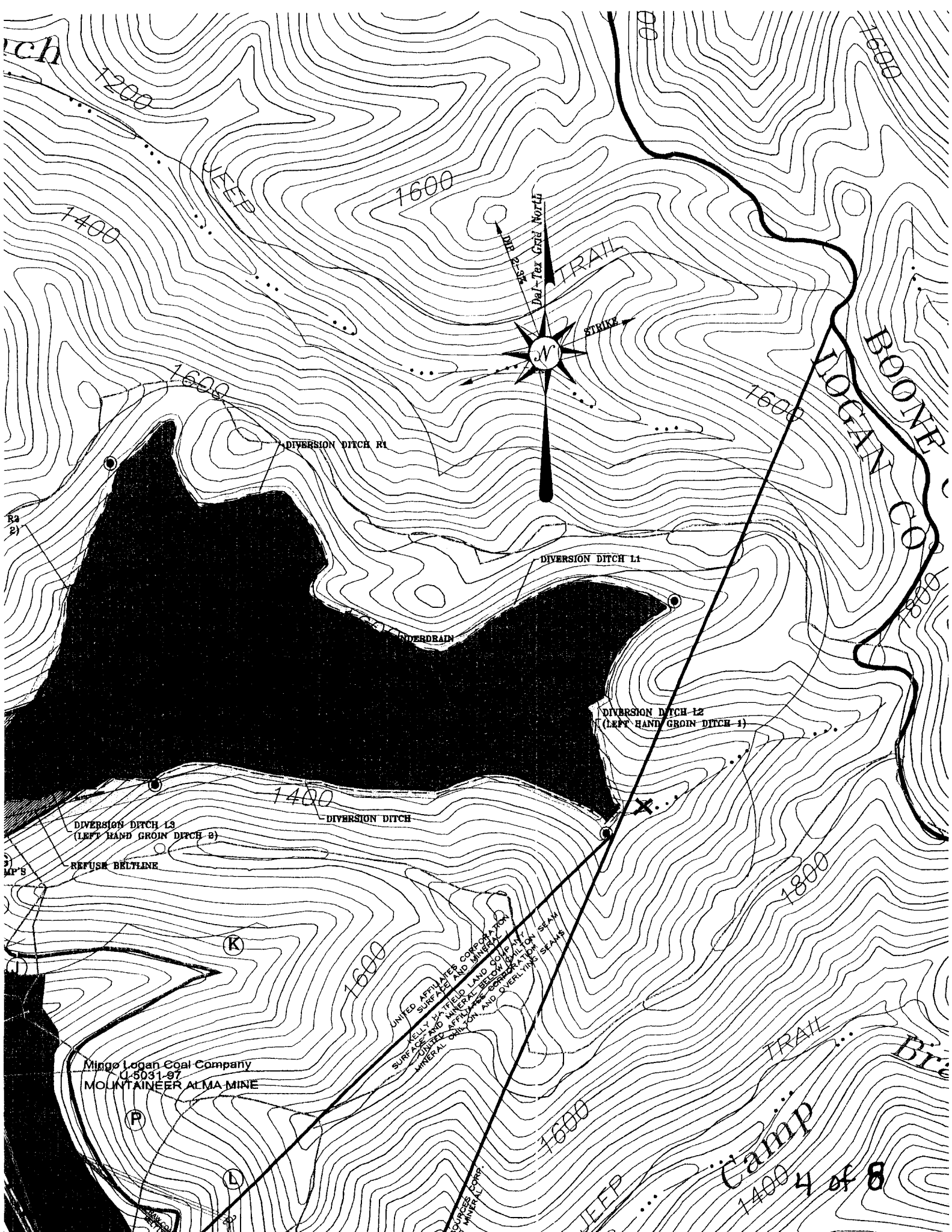
County Route 17

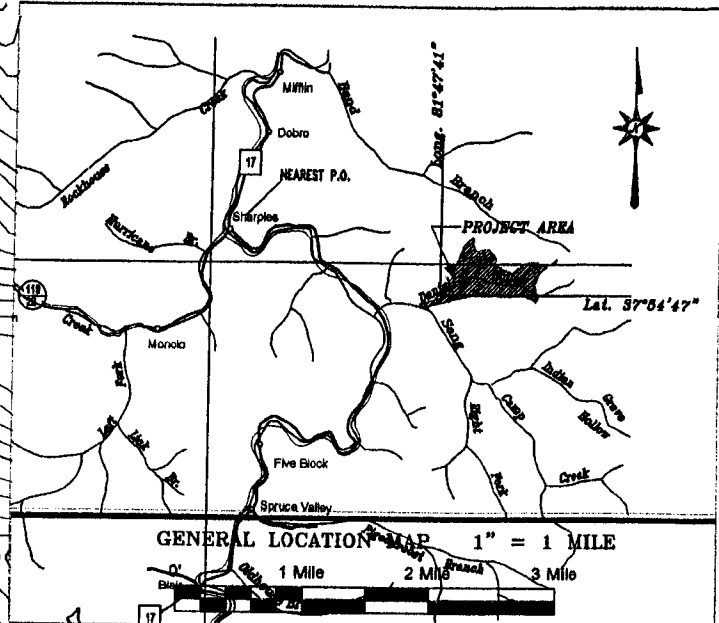
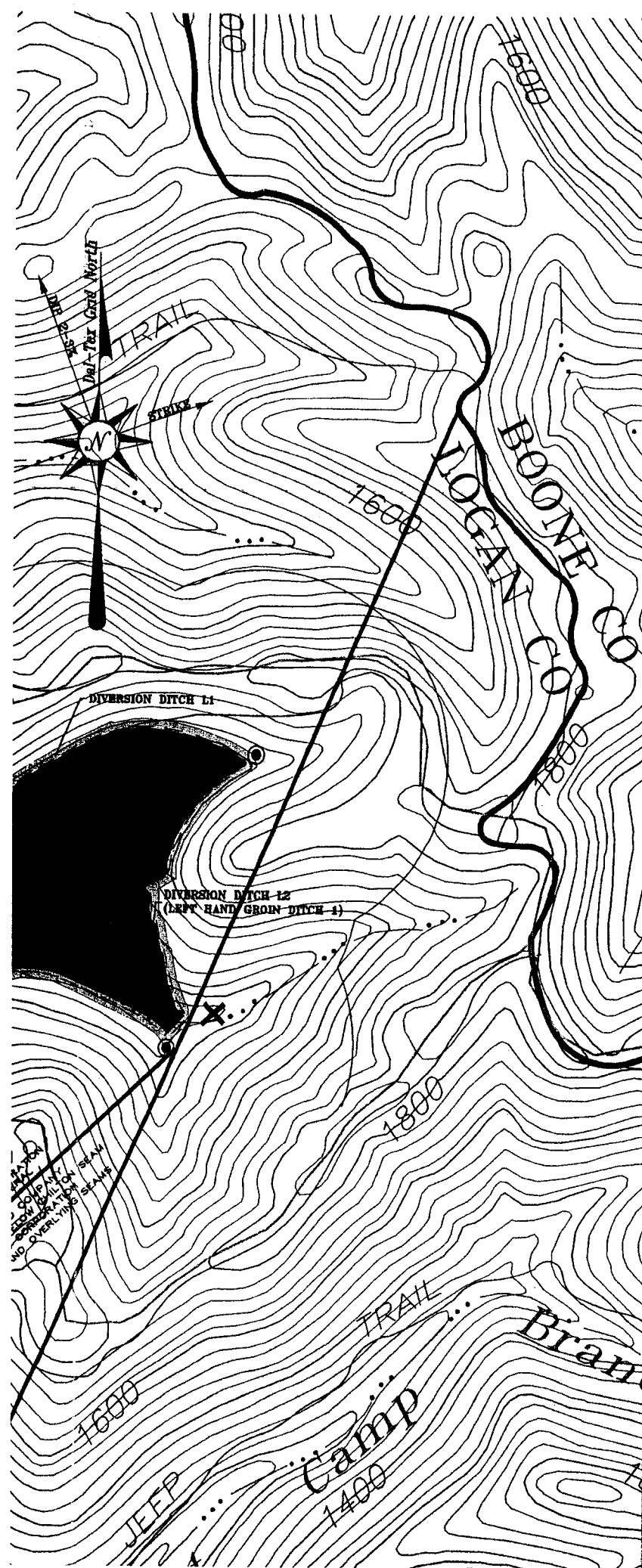
ARKLAND COMPANY SURFACE
UNITED AFFILIATES CORPORATION - MINERAL

UNITED AFFILIATES CORPORATION
SURFACE AND MINERAL

Mingo Logan Coal Company
U-5072-91

3 of 8





COMPONENT DRAINAGE CHART

Note: All sediment control structures are located and approved under U-5031-87.

DRAINAGE STRUCTURE	DRAINAGE AREA(S)	TOTAL ACRES	DISTURBED ACRES	REQUIRED VOLUME ACRES-FOOT	DESIGNED VOLUME ACRES-FOOT
Secondary Basin 16	B thru I, P thru Y	647.33	115.77	See Notes Below	10.08
Secondary Basin 17	B thru I, P thru X	639.86	101.60		11.12
Secondary Basin 18	B thru I, P thru V	632.50	94.24		16.54
Secondary Basin 19	D thru I, P thru U	500.29	82.22		N/A
Secondary Basin 20	E thru I	436.53	30.13		6.19
Pond 14	B thru I, P thru Z, AA	654.03	115.77		9.50
Pond 15	B thru I, P thru Z	650.49	112.23		9.84

Total Acres Disturbed by U-5031-97 and the Daniel Hollow Coarse Refuse Facility is 287.47 acres, requiring 35.9 ac.-ft. of storage. Total Storage provided by Secondary Basins and Ponds is 63.27 ac. ft. of storage.

OUTLET

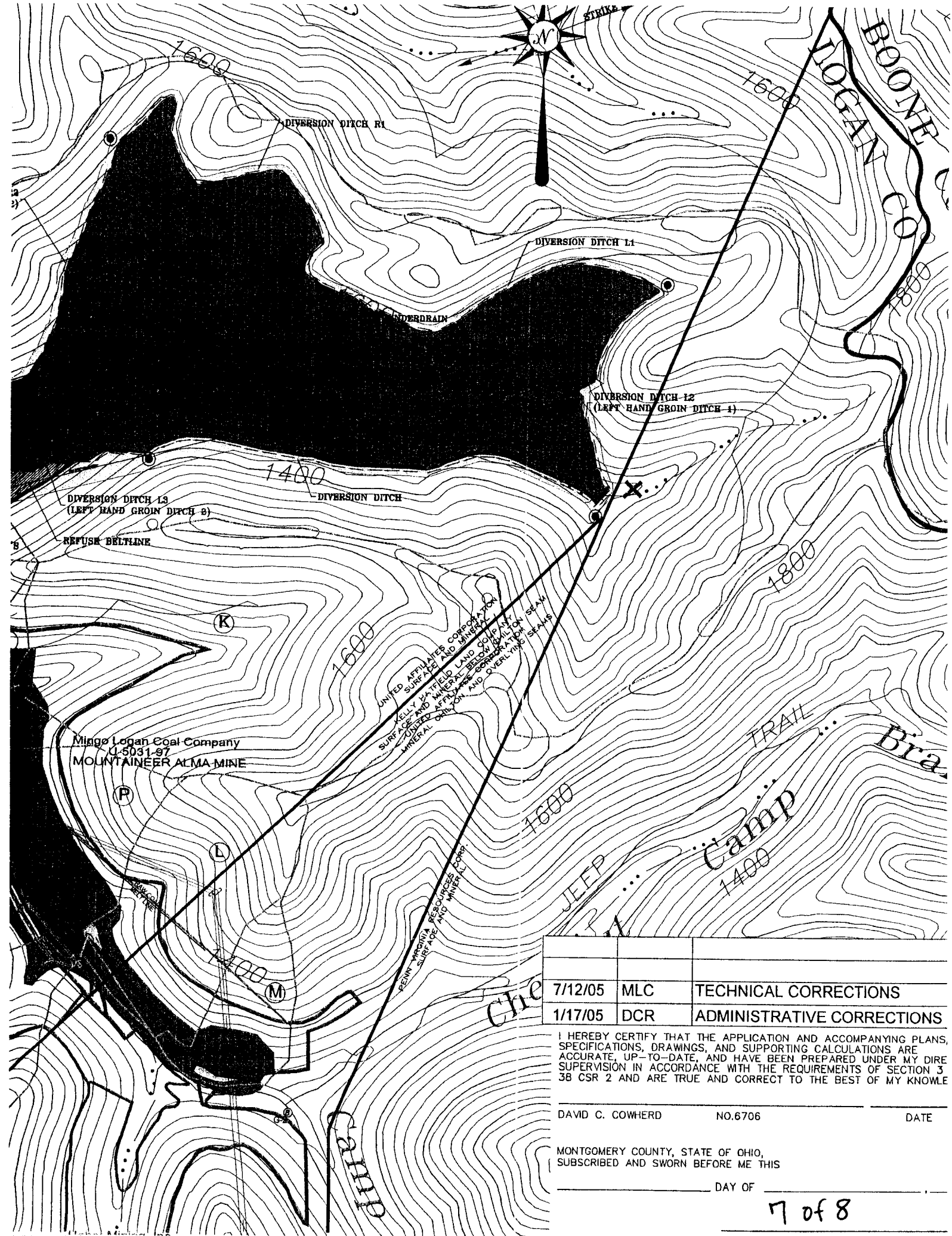
STATIONS ID No.	LATITUDE	LONGITUDE	ELEVATION
011	37°54'36"	81°48'20"	819

- Notes
- No known cultural, historic, or archeological sites listed or eligible for listing in the National Register of Historic Places are within the proposed permit area.
 - No public parks are located in, or adjacent to, the proposed permit area.
 - Current land use for the proposed permit area and adjacent area is Unmanaged Forestland habitat and reclaimed mining area. Historic land use is Unmanaged Forestland habitat.
 - No known habitat of listed threatened or endangered species are on the proposed permit area, or within 1000' of the the proposed permit area.
 - No lands within or adjacent the proposed permit area are known to lie within or adjacent to the boundaries of a National Park System, National Forest, National Wildlife System, National System of Trails, National Wilderness Preservation System, National Wild & Scenic River System, National Recreation Area or areas under study for inclusion in any of these systems.
 - Surface & Mineral owner of the proposed permit area is United Affiliates Corporation & Kelly Hatfield Land Company, Ark Land Company-Surface, WVDOT - Surface.
 - Surface owners of area within 100' of proposed permit area are:
United Affiliates Corporation
Kelly Hatfield Land Company
PENN VIRGINIA RESOURCES CORP.
 - Mineral owner within 100' of the proposed permit area are:
United Affiliates Corporation
Kelly Hatfield Land Company
PENN VIRGINIA RESOURCES CORP.
 - See Geohydrologic maps in Section I of Permit for details of previous mining.
 - Spruce Fork has been designated as a high quality stream by the WV Division of Natural Resources

LEGEND 5 of 8

	TOTAL DISTURBED AREA 151.4 ACRES		1/2 MILE RADIUS
	REFUSE AREA 131.7 ACRES		ADJACENT PERMITS
	DISTURBED AREA 18.7 ACRES		COREHOLE
	EPHEMERAL INTERMITTENT POINT		BASILINE SURFACE WATER MONITORING SITE
	COAL STOCKPILE AREA		BASILINE GROUND WATER MONITORING SITE
	DIVERSION DITCH		NPDES OUTLET
	SEDIMENT DITCH/ POND/ SECONDARY BASIN		NATIVE TOPSOIL SAMPLE SITE
	ROADWAY		PERIMETER MARKER
	PREVIOUSLY MINED CHILTON BENCH		COMPONENT DRAINAGE AREA
	ACCESS ROAD SUMP		
	OCCUPIED DWELLING		
	GAS WELL		
	POWER LINE TRANSMISSION TOWERS		

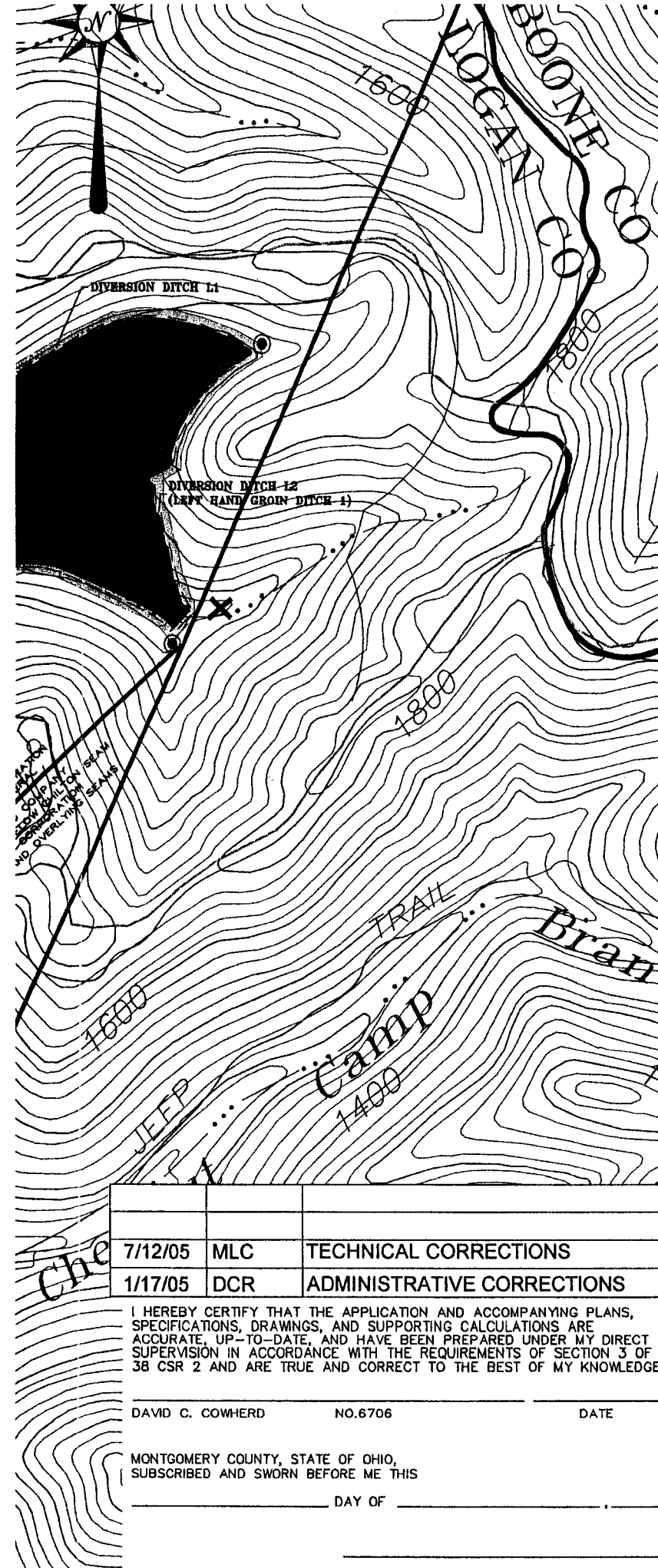




7/12/05	MLC	TECHNICAL CORRECTIONS
1/17/05	DCR	ADMINISTRATIVE CORRECTIONS

I HEREBY CERTIFY THAT THE APPLICATION AND ACCOMPANYING PLANS, SPECIFICATIONS, DRAWINGS, AND SUPPORTING CALCULATIONS ARE ACCURATE, UP-TO-DATE, AND HAVE BEEN PREPARED UNDER MY DIRE SUPERVISION IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 3 38 CSR 2 AND ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLE

DAVID C. COWHERD NO.6706 DATE
MONTGOMERY COUNTY, STATE OF OHIO,
SUBSCRIBED AND SWORN BEFORE ME THIS
DAY OF
7 of 8



COMPONENT DRAINAGE CHART					
Note: All sediment control structures are located and approved under U-5031-87.					
DRAINAGE STRUCTURE	DRAINAGE AREA(S)	TOTAL ACRES	DISTURBED ACRES	REQUIRED VOLUME ACRES-FT	DESIGNED VOLUME ACRES-FT
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LEGEND	
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	DISTURBED AREA 19.7 ACRES
	EPHEMERAL INTERMITTENT POINT
	COAL STOCKPILE AREA
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	BASILINE GROUND WATER MONITORING SITE
	NPDES OUTLET
	NATIVE TOPSOIL SAMPLE SITE
	PERIMETER MARKER
	COMPONENT DRAINAGE AREA ID
	INSTREAM MONITORING POINTS
	48LG198A ARCHAEOLOGICAL SITE
	OVERBONDED PERMIT AREA

DATUM /ORIGIN: WV SOUTH, STATE PLANE 27

Mingo Logan Coal Company
1000 Mingo Logan Ave. Wharfedale, WV 26651

ATTACHMENT X-1
EXHIBIT I-VI-A

PROPOSAL - DRAINAGE MAP
DANIEL HOLLOW COARSE REFUSE AREA
SMA-O-5016-04 NPDES No. WV1013289 Mod #12
EAST DISTRICT - LOGAN COUNTY NEAR SHARPLES, WV CLOTHIER QUADRANGLE

SCALE 1"=500' CONTOUR INTERVAL=40'

CBC ENGINEERS
DAYTON, OHIO

8 of 8

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